

REMARKS

In the Office Action of October 13, 2005, Claims 1-19 were pending for consideration. Claims 1-5, 7-17, and 19 were rejected under 35 U.S.C. 102(b) as allegedly anticipated by U.S. Pat. No. 3,179,979 (hereinafter "Bundy"). Additionally, Claims 6 and 18 were rejected under 35 U.S.C. 103(a) as allegedly obvious over Bundy. Furthermore, Claims 1-19 were provisionally rejected under the doctrine of Obviousness-type Double Patenting, in view of Applicant's copending U.S. Patent Application Serial No. 10/775,042. Each of these rejections will be addressed in turn below.

Rejection Under 35 U.S.C. § 102

The Examiner has rejected Claims 1-5, 7-17, and 19 under 35 U.S.C. 102(b) as being allegedly anticipated by Bundy. Before discussing the rejection, it is thought proper to briefly state what is required to sustain such a rejection. It is well settled that "[a] claim is anticipated only if each and every element as set forth in the claims is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil of California*, 814 F.2d 628, 2 U.S.P.Q. 2d 1051, 1053 (Fed. Cir. 1987). In order to establish anticipation under 35 U.S.C. 102, all elements of the claim must be found in a single reference. *Hybritech, Inc. v. Monoclonal Antibodies, Inc.*, 231 U.S.P.Q. 81, 90 (Fed. Cir. 1986), *cert. denied* 107 S.Ct. 1606 (1987). In particular, as pointed out by the court in *W.L. Gore & Assoc., Inc. v. Garlock, Inc.*, 220 U.S.P.Q. 303, 313 (Fed. Cir. 1981), *cert. denied*, 469 U.S. 851 (1984), "anticipation requires that each and every element of the claimed invention be disclosed in a prior art reference." "The identical invention must be shown in as complete detail as is contained in the...claim." *Richardson v. Suzuki Motor Co.* 9 U.S.P.Q. 2d 1913, 1920 (Fed. Cir. 1989).

The Present Invention

Claim 1 of the present invention recites a high pressure apparatus comprising:

- a) a plurality of complementary die segments, each die segment having an inner surface and an outer surface, wherein the inner surfaces are configured to form a die chamber having a chamber axis upon assembly of the plurality of die segments;
- b) a pair of anvils oriented such that an anvil is at each end of the die chamber and configured to apply force substantially along the chamber axis; and

c) a plurality of force members operatively connected to the plurality of die segments and configured to apply a plurality of discrete forces to the plurality of die segments sufficient to retain the plurality of die segments in substantially fixed positions relative to each other during application of force by the pair of anvils.

Bundy

Bundy teaches the use of a high pressure die assembly utilized in a high pressure apparatus. See col. 1, lines 8-11. As noted by the Examiner, the assembly includes die segments, anvils, a plurality of piston cylinder, force members, and ram segments. See page 2, paragraph 3, Office Action. However, Bundy does not teach the use of discrete forces to retain the plurality of die segments in substantially fixed positions. Rather, Bundy discloses a “constricting means” “surrounding the entire assembly” “to maintain all the segmented portions.” See col. 1, lines 69-71, and col. 2, lines 1-2. Bundy accomplishes this constriction through the use of a “high pressure hydraulic fluid.” See col. 3, lines 63-65, Fig. 1 and 2.

The claims in the present application clearly require discrete forces, as previously shown in independent Claim 1 and from which subsequent Claims 2-5, 7-17, and 19 depend. The present specification defines a discrete force as “a force vector, which has an identifiable source and is associated with a single force vector, as opposed to a summation of somewhat random forces acting on a body, e.g., a gas or liquid surrounding a body.” See page 6, lines 27-30. As Bundy teaches the use of a liquid, i.e. hydraulic fluid, to maintain the segments, Bundy fails to teach the use of discrete forces as required and defined by the present application.

In view of the fact that Bundy fails to teach or suggest each and every element of Claim 1, Applicant submits that the rejection does not meet the threshold for anticipation, and is improper. As Claims 2-5, 7-17, and 19 all depend from Claim 1, neither is the rejection proper against these claims. As a result, Applicant respectfully requests that the rejection be withdrawn.

Rejection Under 35 U.S.C. § 103

The Examiner has rejected claims 6 and 18 under 35 U.S.C. 103(a) as allegedly obvious over Bundy. Applicant does not deem it necessary to recited the entire case law standard required in order to establish a *prima facie* case of obviousness. However, Applicant, would like to briefly remind the Examiner of the required three criteria for a *prima facie* case of

obviousness, namely that the asserted references as modified or combined must: 1) teach or suggest each and every element of the claimed invention; 2) provide sufficient motivation for the modification or combination asserted; and 3) provide a sufficient likelihood of successfully making the modification or combination.

As previously argued Bundy does not teach each and every element of the present application. Neither does the suggestion made by the Examiner with respect to adaptation of the appropriate size for the mold cavity on a case by case basis remedy such a deficiency. As a result, each and every element of Claims 6 and 18 are not taught by Bundy, nor the modification suggested by the Examiner and no *prima facie* case of obviousness has been established. Applicant respectfully submits that therefore, the rejection is improper and requests that it be withdrawn.

Double Patenting

The Examiner has provisionally rejected Claims 1-19 under the judicially created doctrine of double patenting over Applicant's copending U.S. Patent Application serial no. 10/775,042. Without conceding the correctness of the rejection and for the sole purpose of advancing prosecution in the present application, Applicant has enclosed herewith a terminal disclaimer disclaiming the terminal portion of any patent issuing from the present application which extends beyond that of any patent to issue from U.S. Patent Application serial no. 10/775,042. Applicant submits that such terminal disclaimer renders the issue of double patenting moot and therefore requests that the rejection be withdrawn.

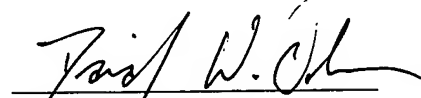
CONCLUSION

In view of the foregoing, Applicants believe that claims 1-19 present allowable subject matter and allowance is respectfully requested. If any impediment to the allowance of these claims remains after consideration of the above remarks, and such impediment could be removed during a telephone interview, the Examiner is invited to telephone the undersigned attorney, or in his absence, Mr. M. Wayne Western, at (801) 566-6633, so that such issues may be resolved as expeditiously as possible.

Please charge any additional fees except for Issue Fee or credit any overpayment to Deposit Account No. 20-0100.

Dated this 13th day of January, 2006.

Respectfully submitted,



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